

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268

In the Matter of:

The Rio Nido Community Post Office
Rio Nido, California 95471

Docket No. A2017-2

Petitioners Rio Nido Homeowners Association, Friends of Rio Nido, a 501(c)(3) non-profit, and Rio Nido residents Carol Marvel, Susan Lijedahl, Cathy DeBrito, Johnnie Etheridge, Marsee Henon, Pip Marquez de la Plata, Alexandra Goodman, Ingrid Emming, Kim Holliday, Troy Held, Douglas Misner, Beverly Bird Misner, John Calonico, Nate Lester, Courtney Coburn, Melanie Curran, Dan Blanchard, Gene Tygielski, Howard Dernberger, Donovan Smandra, John Uniak, and Helena Hallum.

**PETITIONERS' RESPONSE TO UNITED STATES POSTAL SERVICE
MOTION TO DISMISS PROCEEDINGS**

On July 10, 2017, United States Postal Service filed a Motion to Dismiss Proceedings. The Postal Service makes the following claims:

1. The Post Office has consistently maintained that the scope of Section 404(d)(5) is limited to the discontinuance of a Postal Service-Operated "Post Office" and does not apply to contractor-operated retail facilities.
2. The Postal Service Handbook takes this position.
3. The Rio Nido Post Office is not the "sole source" of postal services for Rio Nido. This case is controlled by PRC decisions in the matter of the Post Office, and a matter of the Careywood Post Office.
4. It is convenient for petitioners to purchase stamps in Guerneville.
5. The "late stage" relief requested by petitioners is not practicable.

The Postal Service arguments will be considered in order.

I. The Commission Has Repeatedly Affirmed its CPOs are Covered by Section 404(b)

In case after case, the Commission has reaffirmed its view that CPOs are covered by Section 404(b). Community post offices and contract postal units have a long tradition in the United States going back to the 1880s. Many communities depend on them as their sole source of postal services. Thus, the Commission's longstanding interpretation of law is that patrons have the right to appeal the closing of a contract

post office. By way example, in Benedict, MN, the Commission remanded the case back to the Postal Service based on its concern that the CPO might be closed in the future.

“The closure of CPOs and residents’ interests and rights when a CPO is closed have been an area of concern at the Rate Commission since the *Knob Fork, WV* appeal in 1983 (PRC Op. A83-30). The Rate Commission believes that the appeal rights provided by section 404(b) of the Reorganization Act extend to closures of community post offices. Where residents express concern about the future of the proposed CPO, the Rate Commission feels that residents should be informed that they could appeal a CPO closure to the Commission, just as they may appeal the closure of independent post offices

Application of section 404(b) to a CPO does not mean the Postal Service could never close a CPO. It simply means that the affected residents would be given notice and an opportunity to present their views prior to a final decision. The Postal Service’s Legal Memorandum filed in this case indicates the Service would not solicit citizen comments, nor evaluate the 404(b) factors when deciding whether to maintain CPO services at Benedict, MN. The Commission finds this ignores the clear purpose of the 404(b) legislation.”

Contrary to the Postal Service argument, the Commission’s decision in *Alplaus* does not hold Section 404(d) does not apply to CPOs. The issue in that case, instead, was whether or not the Alplaus CPO was the “sole source” of postal services in the community – a key consideration in a *Knob Fork* decision that was repeatedly mentioned in the subsequent cases. Thus, the Commission’s ruling states that because the Alplaus CPO could not be considered the sole source of postal service for its residents, “the Commission’s rationale for accepting the appeal of the closing of the Knob Fork CPO does not apply in the case of the Alplaus CPO.”

II. The USPS’ Assertions in a Handbook Are Not Law

The Postal Service argues that according to its handbook, community post offices are not subject to section 404(b).¹ However, the Postal Service’s positions in a handbook are not law. Indeed, for decades, the Commission has rejected the Postal Service’s position on this issue. Thus, petitioners have a viable claim under the *Knob Fork* “sole source” standard.

¹ The Postal Service alleges that the Rio Nido Post Office “is a type of Contract Postal Unit (CPU).” (Motion to Dismiss at page 1) The Rio Nido Post Office, however, has always been considered a “Community Post Office.” If this factual question is relevant, further evidence and briefing are warranted. Petitioners strenuously dispute the claim that operating the Rio Nido CPO has impacted the Guerneville Post Office’s budget.

III. The Rio Nido Post Office is the Sole Source of Mail Delivery for This Community Which Has Been Denied Rural Delivery.

As the Postal Service concedes in its motion, the facts of this case are different than the *Careywood* case. In the *Careywood*, Idaho case, customers were eligible for service by carrier delivery, and were provided with both 24-hour access to their mail, and a wide range of retail services from the carrier. In this case, by contrast, customers in the Rio Nido Community are not provided with, and allegedly are not eligible for service by carrier delivery.² They are entirely dependent on their post office boxes which have been moved over 2.1 miles away. This places an unfair and undue burden on the residents of Rio Nido, many of whom have limited income and do not own cars, and/or are disabled. There is also no regular bus service in the area [buses run on average every 2-3 hours, which would make picking up mail an all-day endeavor] that would allow public transportation to be a reasonable and viable option for those without vehicles.

Additionally, the Guerneville Post Office is only accessible during regular business hours, as lobby box access opens at 9:00 a.m. and ends at 5:00 p.m. M-F and at 11:30 a.m. on Saturdays. These extremely limited hours will make mail retrieval very difficult, and in many cases impossible, for those who commute to work and are unable to get to the Guerneville post office before the doors are locked at 5:00 p.m. The lack of Saturday window service at the proposed location will also make package retrieval nearly impossible for commuters who can't access window service between 9 a.m. and 5 p.m. Monday to Friday.

The Rio Nido Post Office is the only post office within a 15+ mile radius that provides window service on Saturdays. Rio Nido residents who would be unable to make it to the Guerneville post office on account of work include, but are not limited to petitioners Marsee Henson, Nate Lester, Courtney Colburn, Melanie Curran, Dan Blanchard, and Helena Hallum, and many other Rio Nido residents. Rio Nido residents who are disabled and would have difficulties getting to the Guerneville Post Office include, but are not limited to, petitioners Cathy DeBrito and Johnnie Etheridge, and many other residents, including Gary Cross and John Tamony. In addition, there are a significant number of Rio Nido residents who rely on USPS for vital delivery services such as prescription medicines. Thus, those who are disabled and/or those who do not have access to private vehicles, or who otherwise cannot travel to Guerneville, will not be able to get vital delivery services such as prescription medicines.

Public transport is not an option for the disabled. The nearest bus stops are unsafe, with no crosswalks or sidewalks, or ADA accessibility. (See Exhibit A, attached hereto) The access road between Rio Nido and the highway where the bus stops are located are not wheelchair accessible.

² Petitioners submit that the Postal Service's decision to deny rural delivery is itself arbitrary and capricious, and a violation of 39 U.S.C. §403. Thus, residents east and west of Rio Nido are provided rural delivery. Indeed, one side of Rio Nido Road receives rural delivery while the other side does not. (See Exhibit B, attached hereto)

In addition, Rio Nido has a significant population of low income residents for whom the lack of both street delivery and Rio Nido mailbox delivery constitutes undue hardship. Requiring these residents to walk 4.2 miles to pick up their mail would constitute an extreme hardship.

Petitioners, like most Americans, like to have their mail Monday through Saturday. There are approximately 1,000 residents in Rio Nido, and if only half of them travel approximately 2.1 miles by car to pick up their mail six days a week, that would add, conservatively, 12,000/week extra miles driven by Rio Nido residents that aren't currently driven: 500×4.2 (average distance round trip) = 2100, $\times 6$ days a week = 12,600 extra miles driven per week.

The closure of this post office, moreover, takes no account of the huge cost to the members of the community, the environmental impact, and effects upon the disabled, and those who do not have cars, the difficulties of getting to the Guerneville Post Office for residents who work, and the value of the many thousands of hours lost in wasted and unnecessary travel, and the environmental impact of the emissions from this added driving.

The Postal Service will not save money by moving petitioner's boxes to Guerneville. Whether the boxes are in Rio Nido or Guerneville, the postal service will still have to take the time to fill the boxes, and Rio Nido is already on the Postal Service delivery route. The Guerneville Post Office delivers mail to the residents and businesses in the Korbelt area to the east of the Rio Nido community. The Guerneville Post Office also delivers to Rio Nido residents on the west side of Rio Nido Road in Rio Nido. Its deliveries surround, and yet exclude nearly all of Rio Nido. Thus, it will not cost the Postal Service any additional amounts to pick up and deliver mail to and from the Rio Nido community.

By contrast, the burdens placed on the 1,000 Rio Nido residents by this closure are huge. The Rio Nido Post Office is the historical center of the town. (See Exhibits C and D attached hereto) As above noted, residents will suffer from having to travel 12,000 extra miles a week. Meanwhile, the lower Russian River area will suffer 12,200 extra miles of pollution, traffic, and infrastructure impact. Those who can't drive, or do not own a vehicle, those are disabled, and those who cannot travel to the Post Office due to work responsibilities will pay the highest price. Every year, many thousands of hours will be spent in unnecessary travel, at a cost to residents of well over \$100,000 a year.

By any measure, the Postal Service's treatment of Rio Nido Residents is completely irrational, and violates 39 U.S.C. §403. The Postal Service's rural postal service surround, and yet exclude, nearly all of Rio Nido. Residents on the west side of Rio Nido Road in Rio Nido receive rural delivery of their mail.³ By contrast, residents on

³ A brief by a Public Representative who has never visited Rio Nido, or spoken to anyone in the community, suggests that the Postal Service is expected to provide more compliant rural delivery in the future. The Postal Service's motion, however, must be governed by the present "single source" conditions.

the east side of Rio Nido Road, and the rest of Rio Nido, do not receive rural delivery of their mail. This is precisely why the Rio Nido Post Office is the “sole source” of mail delivery in Rio Nido. (See Exhibit B, attached hereto)

IV. Purchasing Stamps in Guerneville in Anything But Easy

The Postal Service claims that it is convenient for petitioners to purchase stamps in Guerneville. The Postal Service’s inability to spell the name of this town (e.g., “Geurneville”), however, suggests that they have never visited Guerneville. The only know location in Guerneville where stamps can be purchased, when they are not available at the post office is a checkout line at the Safeway in Guerneville, where the wait in line is even longer than the wait at the Guerneville Post Office when it is open.

V. A Stay May be Easily Implemented

The Postal Service objects to a stay of the Postal Service’s decision to close the Rio Nido CPO pending the Commission’s review of this appeal. Thus, the Service argues that “the relief requested by Peitioners is not practicable to implement at this late stage.” The petition, however, is only “late stage” because the Postal Service failed to provide statutory notice to allow for an adequate public comment. The Postal Service, moreover, refused to consider contract bids from multiple interested parties, which would have allowed the Rio Nido Post Office to continue operations.

There is also nothing impracticable about delivering mail to mailboxes in Rio Nido since the post office delivers mail on the east and west sides of Rio Nido. In the alternative, the post office can also provide rural delivery to the residents of Rio Nido since they already deliver rural delivery to residents on the east and west side of Rio Nido. Thus, pending the decision of this Commission, a stay or suspension should be granted, unless and until rural delivery is provided.

VI. Conclusions

Legal and factual questions exist as to whether the Rio Nido Post Office is the “sole source” of postal services for Rio Nido, and for those who are disabled, unable to drive, or who don’t own a car, or cannot travel to Guerneville during postal hours. The United States Postal Service’s Motion to Dismiss should therefore be denied so that the important merits of this appeal can be addressed.

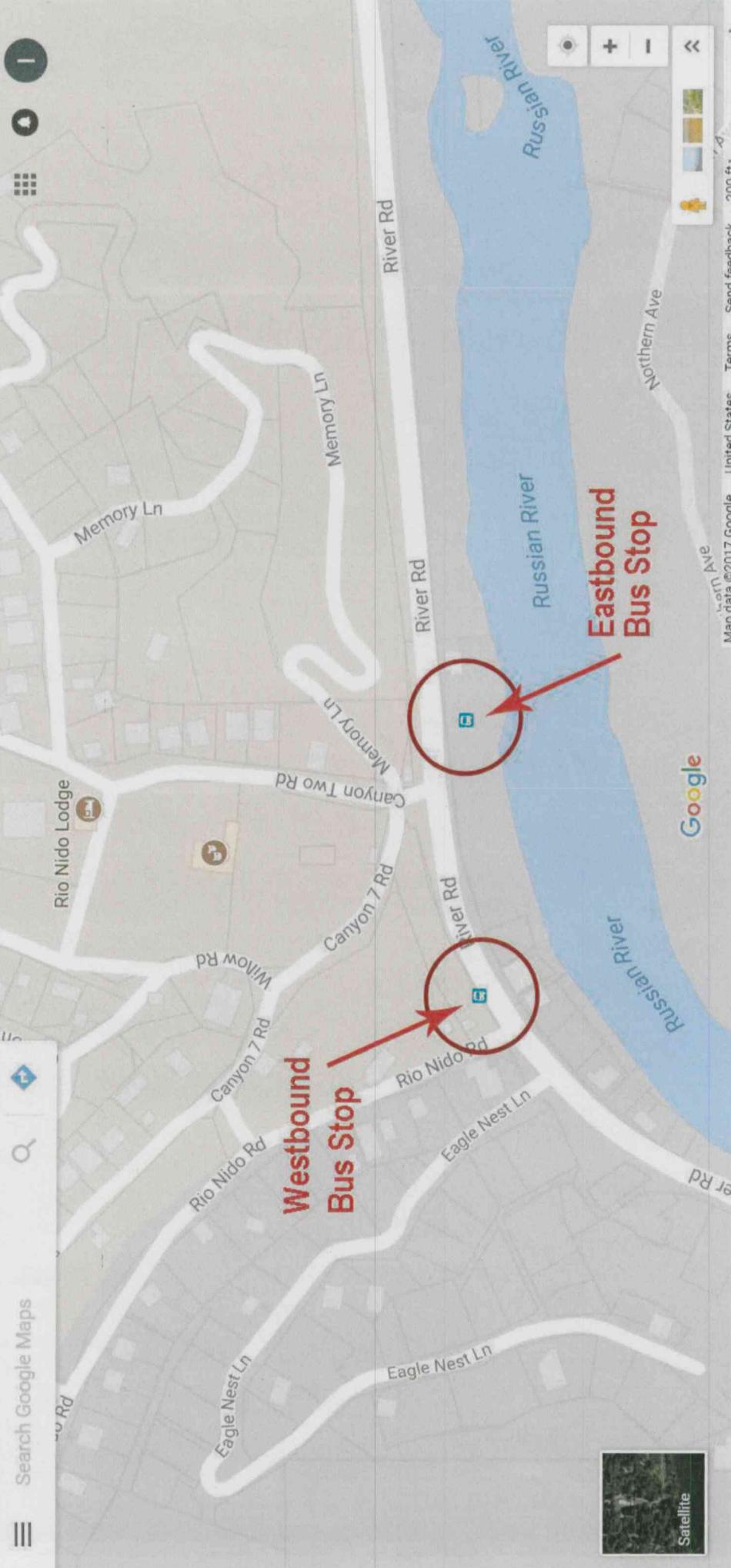
Dated July 20, 2017

Respectfully submitted,

/s/ Joseph Baxter

Joseph Baxter
Attorney for Petitioners

EXHIBIT A



**Westbound
Bus Stop**

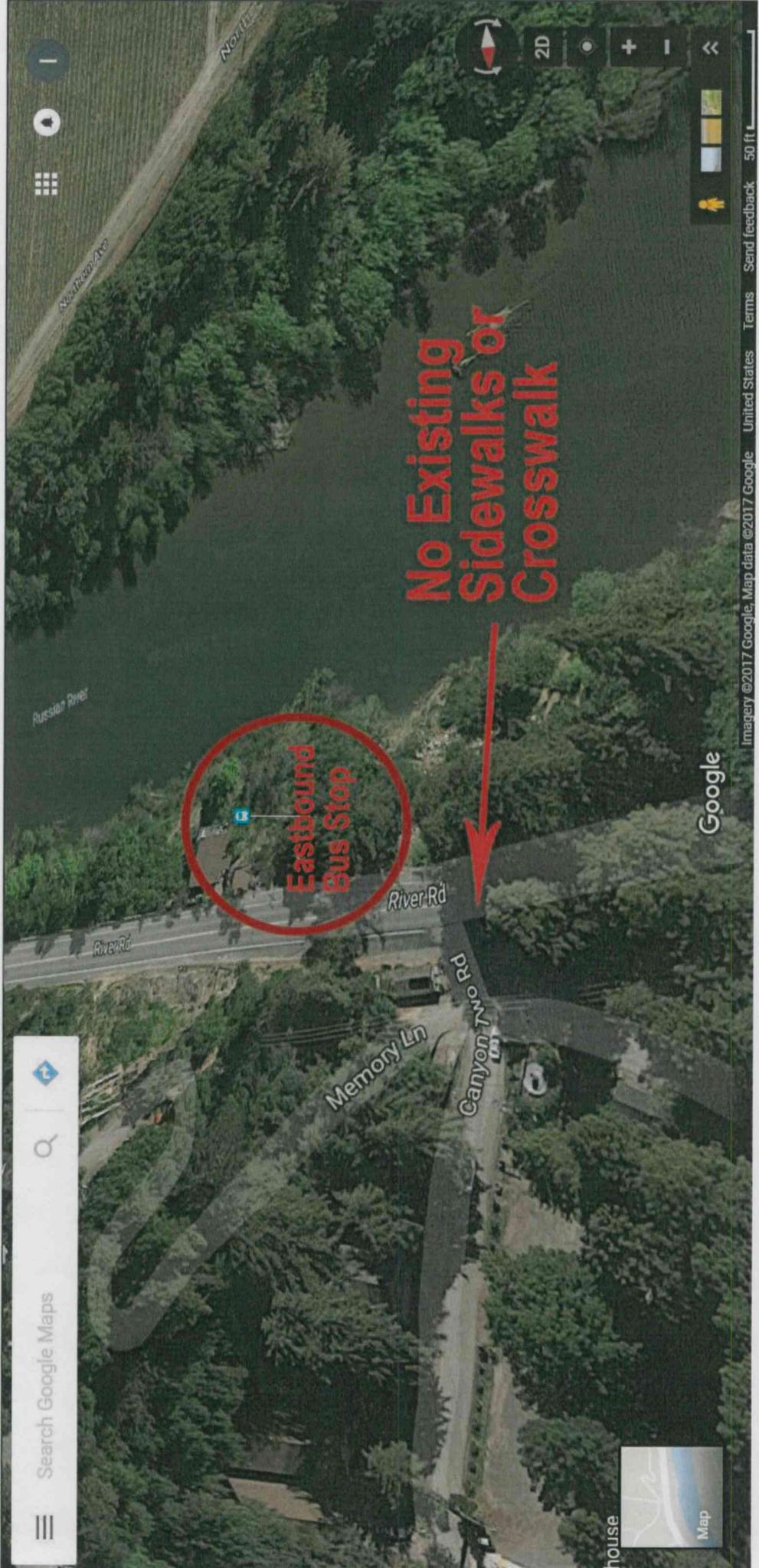
**Eastbound
Bus Stop**



Map data ©2017 Google United States Terms Send feedback 200 ft



Satellite



Search Google Maps



2D



50 ft

Send feedback

Terms

United States

Google

Imagery ©2017 Google, Map data ©2017 Google

Eastbound Bus Stop

No Existing Sidewalks or Crosswalk

Memory Ln

Canyon Trl

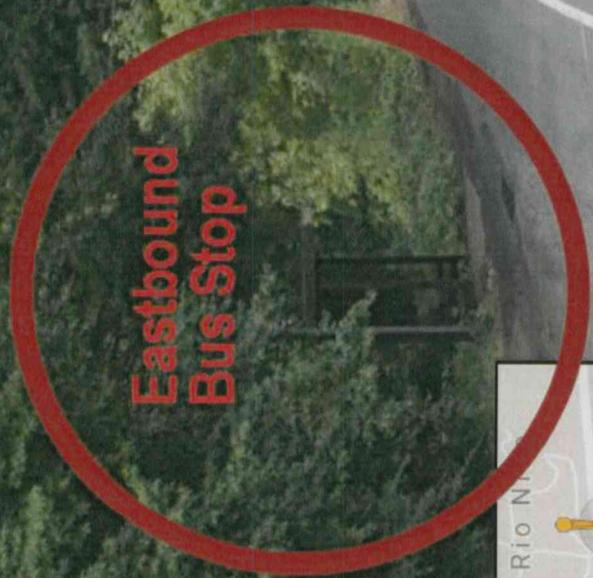
River Rd

house

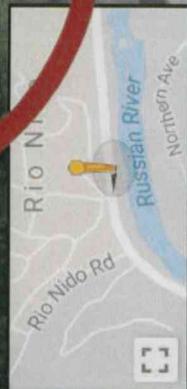
Map

14601 River Rd
Guerneville, California

Street View - Jun 2016



Eastbound
Bus Stop



No Existing
Sidewalks or
CROSSWALK

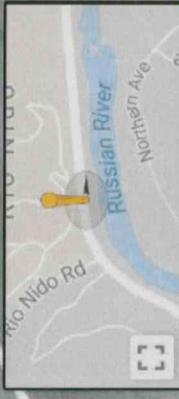


Image capture: Jun 2016 © 2017 Google United States Terms Report a problem

14603 River Rd

Guerneville, California

Street View - Jun 2016



No Existing
Sidewalks or
Crosswalk

Eastbound
Bus Stop

Google

Image capture: Jun 2016 © 2017 Google United States Terms Report a problem



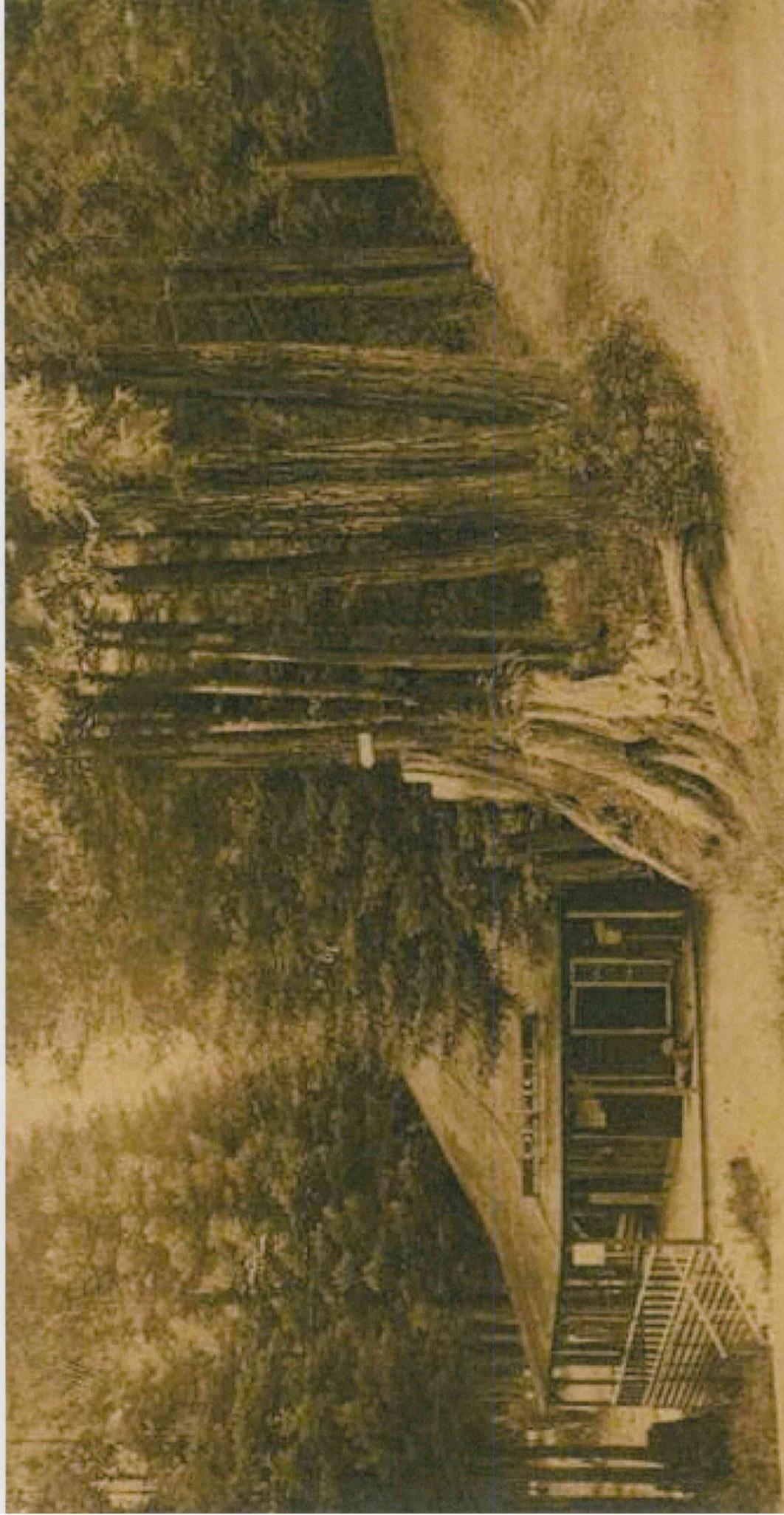
EXHIBIT B

EAST

WEST



EXHIBIT C

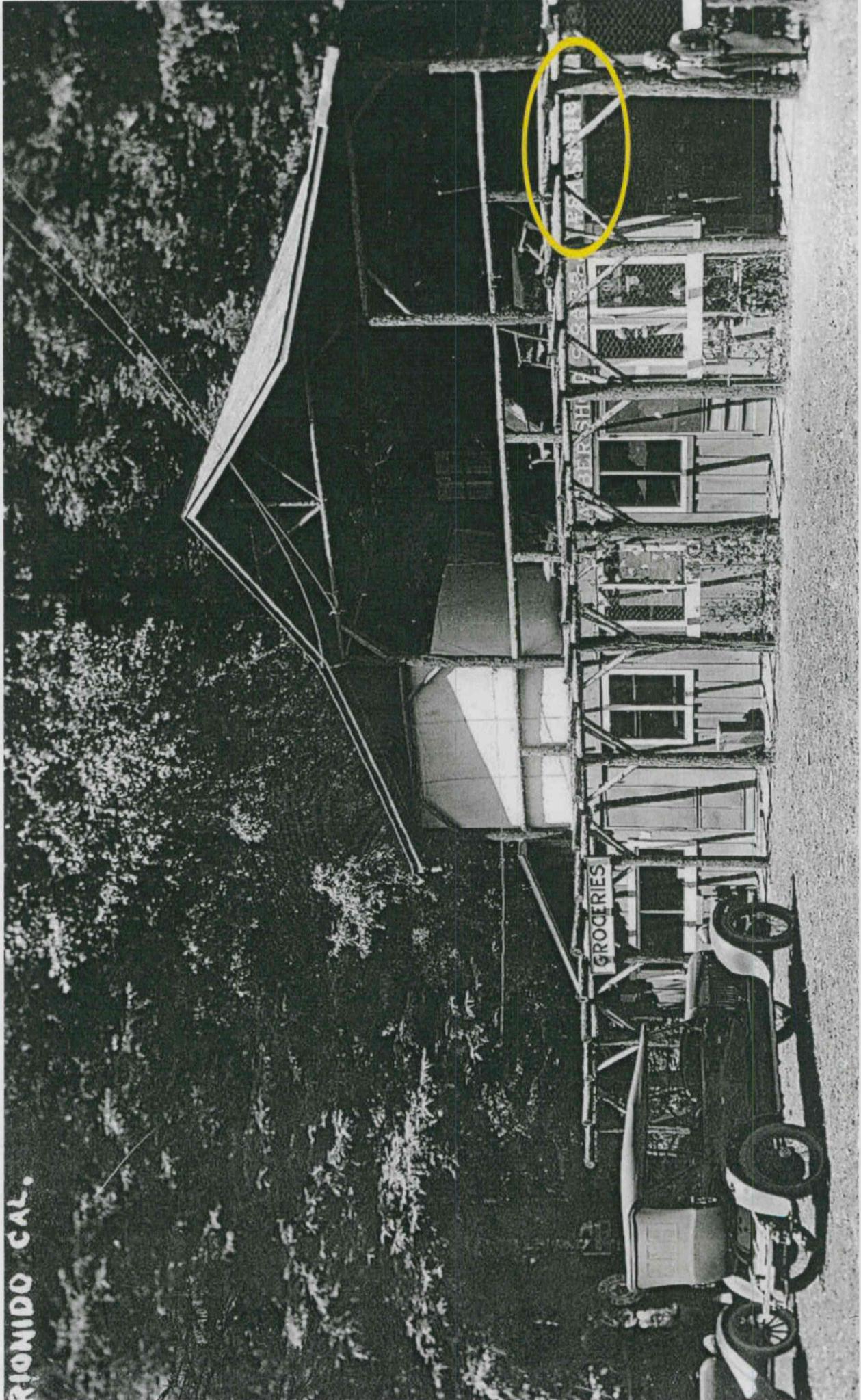


Post Office, Rio Nido, California.

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EXHIBIT D

RIONIDO CAL.



GROCERIES